

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA

DOCKET NO. 2020-263-E

Cherokee County Cogeneration Partners, LLC	)	
	)	
Complainant/Petitioner,	)	<b>DUKE ENERGY CAROLINAS, LLC's AND DUKE ENERGY PROGRESS, LLC's RESPONSE TO CHEROKEE COUNTY COGENERATION PARTNERS, LLC'S PETITION FOR RECONSIDERATION OR REHEARING</b>
v.	)	
	)	
Duke Energy Progress, LLC and Duke Energy Carolinas, LLC,	)	
	)	
Defendants/Respondents.	)	

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Pursuant to S.C. Code Ann. Section 58-27-2150 and S.C. Code Ann. Regs. Sections 103-854, 103-825 and 103-830, Duke Energy Carolinas, LLC (“DEC”) and Duke Energy Progress, LLC (“DEP”) (together, the “Companies”), by and through counsel, respectfully submit this Response to Cherokee County Cogeneration Partners, LLC’s (“Cherokee”) Petition for Rehearing or Reconsideration.

On September 7, 2021, Cherokee filed a Notice informing the Companies and the Public Service Commission of South Carolina (the “Commission”) of its election to be paid avoided costs rates calculated as of September 2018. While the Companies have asked the Commission in a separate Petition to reconsider its finding that Cherokee established a legally enforceable obligation (“LEO”) under the Public Utilities Regulatory Policies Act of 1978 (“PURPA”) in September 2018, both the Companies and Cherokee appear to agree that they need further guidance from the Commission regarding the appropriate methodology by which to calculate DEC’s avoided costs as of September 2018. Cherokee contends that the Commission should order DEC to pay Cherokee at a rate of \$90/kW-year

exclusive of start costs—a rate which the Companies demonstrated through extensive testimony is well in excess of DEC’s actual avoided costs as of September 2018 and would result in customer overpayment. To support its request for these unjust and unreasonable proposed rates developed by its expert witness, Cherokee makes a number of misleading statements that mischaracterize the applicable evidence in the record.

First, Cherokee argues that its proposed \$90/kW-year rate is the “*only* calculation in the record of both an avoided capacity and energy rate calculated as of the date of the LEO.” Petition at 3 (emphasis in original). This is patently false. In response to a request from Commissioner C. Williams, DEC and DEP filed their Late-Filed Exhibit 1 and, later, Corrected Late-Filed Exhibit 1 (“Corrected LFE 1”), which was marked as Hearing Exhibit 14 and clearly set out DEC’s avoided cost rates as of October 2018, September 2020, and February 2021:

Avoided Cost Component	DEC 2018 Strunk*	DEC Oct 2018 **	DEP Feb 2019***	DEP Jun 2020***	DEC Sept 2020****	DEC Feb 2021
Energy \$/kW-year	\$ 63.00	\$ 34.97			\$ 39.01	\$ 20.79
Capacity \$/kW-year	\$ 47.00	\$ 15.10			\$ 35.68	\$ 35.68
<b>Total \$/kW-year</b>	<b>\$ 110.00</b>	<b>\$ 50.06</b>			<b>\$ 74.69</b>	<b>\$ 56.48</b>

\* As presented in Witness Strunk's pre-filed direct testimony.

\*\* This reflects the avoided cost components for a 10 year dispatchable tolling PPA capacity rate that was given to the ORS in response to their data request 2-2.

Corrected LFE 1 included the avoided cost components for a 10-year dispatchable tolling PPA rate calculated using methodology and inputs from September 2018—a \$34.97/kW-year energy rate and a \$15.10/kW-year capacity rate for a combined \$50.06/kW-year total avoided cost rate.<sup>1</sup> In addition, DEC/DEP Witness Keen presented the five-year avoided

<sup>1</sup> In response to Cherokee’s expert, Mr. Strunk, DEC/DEP Witness John Freund also testified at the hearing that DEC’s avoided capacity rate for a 10-year dispatchable tolling agreement was approximately \$15/kW-year in September 2018 based upon a 2028 first year of capacity need. (Tr. Vol. 2, pp. 344, 382 (“the avoided

energy rates initially provided to Cherokee in October 2018, which reflected the same five-year term and were calculated using the same methodology as rates DEC provided to all other QFs during this period. (Hrg. Ex. 13 (Attachment 4).)

Cherokee also suggests that the avoided energy rates in Corrected LFE 1 are “much lower” than the “must-take” 5-year rates DEC quoted to Cherokee in October 2018 and described by Witness Keen. Petition at 4. However, this too is a misrepresentation of the record. In fact, the only difference between the September 2018 rates presented by Witness Keen and Corrected LFE 1 is that DEC has now agreed to offer Cherokee the more favorable 10-year dispatchable tolling agreement structure, as recognized in Order No. 2021-604. The rates presented in Corrected LFE 1 were calculated using the *same* methodology and inputs that DEC used in October 2018—which is also consistent with the methodology later approved by the Commission in Order No. 2019-881(A). (Hrg. Ex. 14, Corrected LFE 1, p. 1). Any perceived difference in the rate is the result of converting the 5-year “must-take” rates to the 10-year dispatchable tolling structure that the Parties have agreed to adopt in the new PPA. (Hrg. Ex. 14, Corrected LFE, p. 1 (“Although the DEC October 2018 rates presented to Cherokee were calculated based upon a “must-take” PPA structure, they are presented here calculated based upon a dispatchable tolling agreement PPA structure for comparison[.]”).)

Next, Cherokee continues to misleadingly suggest that its proposed \$90/kW-year rate “comports with this Commission’s Order No. 2016-349.” Petition at 3. To the contrary—and as the Companies explained in both their Post-Hearing Brief and their

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capacity component . . . went from \$15 a kilowatt year [in September 2018] to what is a \$36 a kilowatt year [in February 2021].”).)

separate Petition for Reconsideration or Rehearing—Order No 2016-349 did *not* even consider, much less approve, a specific avoided cost calculation methodology. Instead, the Order simply instructed that “[a]ll rates for QFs above two MW, or otherwise ineligible for the standard tariffs, shall be negotiated under the Public Utility Regulatory Policies Act of 1978 and the Federal Energy Regulatory Commission’s implementing regulations.” Order No. 2016-349, at 1-2. Absent a then-existing Commission-approved methodology applicable to large QFs, the September 2018 avoided cost rates presented in Corrected LFE 1 were calculated using the same methodology the Commission approved after extensive review in Order No. 2019-881(A) and now provide Cherokee the favorable 10-year dispatchable tolling structure. Accordingly, to ensure Cherokee is treated similarly to other large QFs asserting LEOs as of September 2018, the Companies have respectfully asked the Commission to clarify that Cherokee’s rates should likewise be calculated using the methodology approved by the Commission in Order No. 2019-881(A).

Finally, despite Cherokee’s claim, it is not imperative for the Commission to identify and approve the precise avoided cost rates for the Parties to reach agreement and execute a successor PPA. Instead, the Commission need only confirm the appropriate methodology DEC must use to calculate the rate. Applying the Commission-approved methodology to calculate avoided cost rates for a large QF like Cherokee—as DEC has done in its Corrected LFE 1—is fully consistent with Commission’s directives in Order No. 2019-881(A) at 82 (directing Companies to “continue the practice of applying the most up-to-date inputs under the peaker methodology in calculating such rates for large, non-Standard PPA QFs”) and Order No. 2020-315 at 25 (directing Companies to “incorporate the most up-to-date inputs to the avoided energy and avoided capacity rates to reflect future

changes to Duke's integrated resource plans consistent with DEC's and DEP's most recently-filed IRPs in calculating the avoided cost rates for Large QFs").

For all of these reasons and for the reasons set out in more detail in the Companies' separate Petition for Reconsideration or Rehearing, the Companies respectfully request that the Commission reject the \$90/kW-year rate proposed by Cherokee that would result in overpayment by DEC's customers and instead instruct that DEC should apply the avoided cost methodology determined and approved by the Commission in Order No. 2019-881(A) to calculate just and reasonable avoided cost rates to be paid to Cherokee.

Respectfully submitted this, the 13<sup>th</sup> day of September, 2021

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